

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Curtis Rena Hill, #296024, a/k/a Curtis R. Hill,)	Civil Action No. 6:08-4080-HMH-WMC
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
Adell Dobey, Polly Hall, and Marcus Smith,)	
)	
Defendants.)	
_____)	

This matter is before the court on the plaintiff's motions to compel (docs. 45, 47). The plaintiff, a state prisoner who is proceeding *pro se*, brought this action seeking relief pursuant to Title 42, United States Code, Section 1983.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

In his complaint, the plaintiff alleges deliberate indifference to a serious medical need after he slipped and fell on a wet floor at Edgefield County Detention Center on September 29, 2008, causing injuries including a sprained ankle.

On May 15, 2009, the plaintiff filed a "Motion of Default" (doc. 45). On August 6, 2009, the plaintiff filed another "Motion of Default" (doc. 47). In the motions, the plaintiff complains that the defendants have not responded to his discovery requests. As relief, he asks that the defendants be held in "default." The court will construe the motions

as motions to compel pursuant to Federal Rule of Civil Procedure 37 as that is the appropriate avenue for relief rather than a motion for default.¹

According to the plaintiff, on April 13, 2009, he requested that the defendants provide him with all documentation that the defendants have regarding his visit to the emergency room after his fall at the Edgefield County Detention Center. The defendants did not respond to his discovery request and filed no response in opposition to the motions to compel. This court finds that the plaintiff's requested discovery is relevant to his claims.

Based upon the foregoing, the plaintiff's motions to compel (docs. 45, 47) are granted. The defendants are ordered to respond to the plaintiff's request by September 21, 2009.

s/William M. Catoe
United States Magistrate Judge

September 1, 2009

Greenville, South Carolina

¹Rule 37 provides that if a party fails to respond to discovery, the party seeking discovery may move for an order compelling production. An entry of default is available when "a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend" Fed.R.Civ.P. 55. The defendants in this case have in fact filed an answer to the plaintiff's complaint. Accordingly, an entry of default would not be appropriate.